

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7106

BILL NUMBER: HB 1352

NOTE PREPARED: Jan 12, 2010

BILL AMENDED:

SUBJECT: Nonprofit or Faith-Based Community Transition Programs.

FIRST AUTHOR: Rep. Crawford

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

- A. It establishes that nonprofit or faith-based community transition programs are eligible to receive certain offenders for community transition programs (CTPs). These programs would be eligible for reimbursement from the Department of Correction (DOC) for certain offenders who were sentenced for certain crimes that are nonviolent and not drug-related.
- B. It specifies that the crimes that are not nonviolent include the following: murder, voluntary manslaughter, involuntary manslaughter, reckless homicide, battery with a deadly weapon or causing death, aggravated battery, kidnapping, confinement, sexual battery, rape, criminal deviate conduct, child molesting, child solicitation, sexual misconduct with a minor as a Class A felony, robbery, Class A or B burglary, OWI causing death, arson resulting in serious bodily injury, resisting law enforcement with a deadly weapon, escape with a deadly weapon, rioting with a deadly weapon, any attempt to commit any of these crimes.
- C. It sets the per diem reimbursement rate for nonprofit or faith-based community transition programs at least 50% of the published per diem rate for incarcerating an offender in a DOC facility.
- D. It provides that certain individuals who provide services to offenders placed with a nonprofit or faith-based community transition program are considered to be public employees for certain purposes. It provides immunity for individuals or entities operating a nonprofit or faith-based community transition program.

Effective Date: July 1, 2010.

Explanation of State Expenditures: Summary Depending on how quickly these programs are permitted

to be created, DOC may be able to save incarceration costs on “eligible” Class D felony offenders. “Eligible” offenders for the purpose of this fiscal note were sentenced for nonviolent crimes (see description above) that were not drug-related.

Currently, all felony offenders with determinate sentences of two or more years can be placed in a CTP. The maximum time in CTP depends on their felony class. This bill permits any “eligible” offender who has a sentence greater than 1.5 years to be in a nonprofit or faith-based CTP for a maximum 100 days.

DOC would save money on Class D felons because their current maximum length of stay in a community transition program is 60 days, while the length of stay in these new CTPs would be 100 days. DOC would not save money on eligible Class A, B, or C felons, because their maximum length of time in CTP programs is longer than for Class D felons and the relative costs would be lower under current law. The following table explains these differences.

Potential Eligible Offenders and Savings – LSA identified 283 “eligible” Class D felons who were released to CTP in 82 counties in FY 2009 and another 184 “eligible” Class D offenders in these same counties who were either discharged or placed on probation or parole and who were sentenced to a term of years between 1.5 and 2 years. Some “eligible” Class D offenders were released on probation or parole and might also be able to be placed in CTP and then later on probation or parole. In FY 2009, 3,884 “eligible” Class D nonviolent offenders were placed on parole and 1,160 “eligible” Class D offenders were placed on probation in these same 82 counties. In each case, DOC could save about \$786 (\$3,500 - \$2,714) for each offender released 100 days early.

The following table compares the costs of the final 100 days for felony offenders when they are in the CTPs under current law and if they are discharged or released on probation or parole as proposed by this bill.

Comparing the Last 100 Days of an Offender’s Time in Incarceration and in CTP							
Felony Class	# of Days in DOC	# of Days in CTP	Final Days in DOC*	First 30 Days on CTP**	Balance of Time on CTP	Total Cost	Cost per Day for 100 Days
Class A and B		100		\$1,050	\$1,050	\$2,100	\$21.00
Class C	10	90	\$350	\$1,050	\$900	\$2,300	\$23.00
Class D	40	60	\$1,400	\$1,050	\$450	\$2,900	\$29.00
Offenders in Nonprofit or Faith-Based CTP ***		100				\$2,714	\$27.14
Offenders Currently Discharged or Released on Probation or Parole	100		\$3,500			\$3,500	\$35.00
<p>* The costs of housing DOC offenders in county jails (\$35) is used as a proxy for how much DOC can save by releasing certain offenders earlier to CTP.</p> <p>** Under current law, DOC spends \$35 per day for the first 30 days and \$15 per day for the balance of the time in CTPs.</p> <p>***In FY 2010, the per diem rate for incarcerating an offender is \$54.28, so these new CTPs would receive <i>at least</i> \$27.14 for each day an offender is in the CTP.</p>							

It was not able to be determined what effect that employees and volunteers of nonprofit or faith-based

programs would be considered similar to Indiana state employees for purposes of immunity from liability on state expenditures.

Current Law and Practice – Currently, in community transition programs, offenders with sentences longer than two years can spend the *last* 30 to 180 days of their executed sentence in a community transition program, depending on the offender's felony class and whether the crime was drug-related. The community transition programs are operated by either a community correction agency in the county or by the criminal court's probation staff. In FY 2009, 82 counties accepted one or more offender into a CTP program.

Key Features of Bill Affecting CTPs-

1. Nonprofit or faith-based organizations may apply to DOC to create new community transition programs operated by nonprofit or faith-based organizations. DOC would develop an application for enrolling with DOC as a nonprofit or faith-based CTP.
2. If DOC approves and the programs are created, certain nonviolent offenders would be eligible to enroll in these faith-based or nonprofit community transition programs. These programs would receive at least 50% of the per diem that DOC reports for its daily cost of incarcerating an offender under IC 11-10-3. For FY 2010, the per diem rate is \$54.28, so these new CTPs would receive approximately \$27.14 for each day an offender is in the CTP.
3. New offenders with sentences between 1.5 years and 2 years would be eligible for the nonprofit or faith-based program.
4. The maximum time an offender would be in a faith-based or nonprofit community transition program would be 100 days.
5. Employees and volunteers of nonprofit or faith-based programs would be considered similar to Indiana state employees for purposes of immunity from liability.
6. Nonviolent offenders were not convicted of the following: murder, voluntary manslaughter, involuntary manslaughter, reckless homicide, battery with a deadly weapon or causing death, aggravated battery, kidnapping, confinement, sexual battery, rape, criminal deviate conduct, child molesting, child solicitation, sexual misconduct with a minor as a Class A felony, robbery, Class A or B burglary, OWI causing death, arson resulting in serious bodily injury, resisting law enforcement with a deadly weapon, escape with a deadly weapon, rioting with a deadly weapon, any attempt to commit any of these crimes.

Data Used to Evaluate Effect of Bill– The following estimates are based on offenders who were released from DOC facilities during FY 2009 into existing CTPs in 82 counties.

Offenders Released to Community Transition Programs in FY 2009 by Type of Crime						
Felony Level	Dealing Drugs	Nonviolent	Other Drug	Possession Of Drugs	Violent	Grand Total
Murder					5	5
FA	23	2		2	15	42
FB	275	55		27	171	528
FC	16	508	3	117	136	780
FD	3	283	8	86	19	399
Grand Total	317	848	11	232	346	1,754

Estimated DOC Incarceration Costs – The costs of housing DOC offenders in county jails was used as a proxy for how much DOC can save by releasing certain offenders earlier to CTP. This is because DOC adult facilities are generally at full capacity, and so a percentage of offenders are confined in county jails for part or all of their terms of incarceration. If fewer offenders are in DOC facilities, DOC may be able to transfer more offenders from county jails to DOC facilities.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOC.

Local Agencies Affected:

Information Sources: DOC Offender Information System; Tim Brown, Legislative Liaison, DOC.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.